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examples of state of the art locating systems which incorporate portable walk over locators see U.S. Patent No. 4,387,380 entitled APPARATUS FOR DETERMINING THE DISTANCE TO A CONCEALED OBJECT WHICH IS RADIATING AN ALTERNATING CURRENT SIGNAL (hereinafter the '380 patent) and U.S. Patent No. 5,633,589 entitled DEVICE AND METHOD FOR LOCATING AN INGROUND OBJECT AND A HOUSING FORMING PART OF SAID DEVICE (hereinafter the '589 patent). It is noted that the latter patent is commonly assigned with the present application.

Please replace paragraph 25 with the following paragraph for purposes of omitting a word which inadvertently remains:

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¶25 Referring to Figures 1-4, having described several implementations of the ground marking locator arrangement of the present invention, it is now appropriate to discuss its advantages. It should first be appreciated that an operator of the locator of the present invention is able to mark the ground without the need to carry a separate marking device. In the instance of locator 10, the operator simply depresses pedal end 62 of spray lever 60 while, in the instance of locator 100, the operator simply actuates switch 25 in a predetermined way. In either case, a mark is formed on the ground while the operator's other hand remains free to perform other tasks such as, for example, operating a walkie-talkie. At the same time, it should be appreciated that, when using either implementation, the operator may remain standing in a substantially upright position without the need to repeatedly bend over in order to mark the ground. In other words, the operator is able to mark the ground while holding the locator in substantially the same manner as the locator is held for locating purposes. For these reasons alone, the present invention is submitted to be highly advantageous. The ground marking portable locator of the present invention has not been seen heretofore by Applicants and is thought to be a significant enhancement in the field. As one example, in systems using a portable locator for tracking the underground progress of a boring tool, an operator may efficiently mark the path of the boring tool on the ground surface without the need frequently change body positions and while one hand remains free to attend to other tasks.

Remarks

Claims 1-37 were examined. No amendments have been made in the pending claims since Applicants believe that the claims overcome the art of record, as they stand. An amended copy of Figure 1 has been submitted herewith, as well an amended version of paragraph 3 for purposes of correcting the Examiner's concerns. Paragraph 25 has been amended to correct an editing error. Applicants appreciate the Examiner's review of the Application.

The Rejections under 35 U.S.C. § 103

The Examiner rejected Claims 1-37 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,738,060 issued to Marthaler et al. (hereinafter Marthaler) in view of U.S. Patent No. 4,387,340 issued to Peterman and U.S. Patent No. 6,064,940 issued to Rodgers et al. (hereinafter Rodgers). On page 3 of the outstanding Office Action, the Examiner appears to suggest that the relied on combination of prior art is reasonable on the basis of a recognized need in the prior art to minimize errors and to improve accuracy in marking the ground. As will be seen immediately hereinafter, Applicants submit that this rationale is improper in making out a rejection under § 103, particularly in view of the claims under examination.